United Nations A/HRC/26/39/Add.2

General Assembly

Distr.: General
12 June 2014

Original: English

Human Rights Council
Twenty-sixth session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Working Group on the issue of discrimination against women in law and in practice

Mission to China* **

Summary

The Working Group on the issue of discrimination against women in law and in practice conducted a mission to China from 12 to 19 December 2013. In the present report, it sets out the context for gender equality and the human rights of women in China and discusses achievements and challenges. It considers the legal, institutional and policy frameworks for promoting equality, pays particular attention to the agenda for reform announced at the third plenary session of the 18th Central Committee of the Communist Party of China in November 2013 and analyses its potential impact on Chinese women. The Working Group then examines the participation and empowerment of women in economic, social, political and public life, including women in vulnerable situations. It identifies good practices in eliminating discrimination and promoting equality, and concludes with observations on areas for further progress and recommendations.

* Late submission.

** The summary of the present report is circulated in all official languages. The report itself, contained in the annex to the summary, is circulated in the language of submission and in Chinese only.

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Annex

[English and Chinese only]

Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to China (12–19 December 2013)

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I. Introduction

1. The Working Group on the issue of discrimination against women in law and in practice visited China from 12 to 19 December 2013 at the invitation of the Government. The Chairperson-Rapporteur, Frances Raday, and Kamala Chandrakirana, participated in the visit.

2. In accordance with its mandate, as contained in Human Rights Council resolutions 15/23 and 20/6, the objectives of the Group were to engage in dialogue with the Government and other stakeholders on the issue of eliminating discrimination against women in law and in practice; to identify good practices in the elimination of laws that discriminate against women or are discriminatory in terms of their implementation or impact; and to make recommendations on ways and means to advance women's equality and empower them. It focused, in particular, on the issue of women's economic and social life, which is the priority theme of the Working Group for 2013–2014.

3. The Group held consultations in Beijing, Shanghai and Xishuangbanna Dai Autonomous Prefecture in Yunnan province,[1] with Government officials, local authorities, national and local civil society organizations and academics, grass-roots women community leaders and representatives of the United Nations agencies. Due to the immensity of the country – in population size, geographic expanse and global significance – the Group regrets that it was given only eight working days to conduct its visit to China. It is encouraged, however, by the overall openness of China to the special procedures of the Human Rights Council, as illustrated by the invitation extended to the Group and the signalling of interest in receiving visits from three other mandate holders announced at the last universal periodic review of China in October 2013.

4. The Group expresses its sincere gratitude to the Government for its cooperation in ensuring the success of the visit. It is grateful to United Nations and other interlocutors for their support during the mission. It looks forward to continued engagement with the Government and other stakeholders on the issue of gender equality and women's human rights and on the implementation of its recommendations.

II. Context

5. China has a long and rich history of culture, language, art, political philosophy and experience of different phases of development. The 1949 revolution granted women equal rights to education and employment and a philosophy of equality was reflected in the concept that women hold up half of the sky. In the past 30 years, China has undergone impressive and successive cycles of reform, resulting in an exceptionally swift growth in GDP,[2] an admirable reduction in the poverty rate between 1981 and 2009 and a notable rise in its human development index.[3] China has made remarkable progress in achieving nearly

[1] The Working Group was also due to visit a domestic violence shelter and a project addressing trafficking for labour exploitation in Kunming, Yunnan province; however, these visits were cancelled due to bad weather.

[2] Although GDP has increased overall during the past three decades, it has been falling since 2010, see data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG.

[3] See United Nations Development Programme and the Institute for Urban and Environmental Studies, Chinese Academy of Social Sciences, *China National Human Development Report 2013*, available from www.cn.undp.org/content/china/en/home/countryinfo/.

half of the Millennium Development Goals by the end of 2013[4] and has surpassed one target aimed at promoting gender equality, namely increasing the level of education for girls.[5] Many predict a 75 per cent reduction in the maternal mortality rate before 2015.[6]

6. At the same time, China is facing the challenge of demographic change on an unprecedented scale, both in rapid rural-urban labour migration and in an increasingly ageing society. The gap between urban and rural Chinese is widening and urban incomes are now estimated to be more than three times higher than rural incomes.[7] These trends are, undoubtedly, major features of the Chinese economy today and have distinct implications for women, who assume a major burden of care both for children and the elderly.

7. The visit of the Working Group coincided with a pivotal moment in the reform cycle, after the agenda for reform was announced at the Third Plenary Session of the 18th Central Committee of the Communist Party of China in November 2013.

8. Key aspects of this reform include the establishment of a unified, open, competitive and ordered market system; building a service-orientated Government based upon the rule of law; and accelerating reform in sectors such as education, employment, income distribution, social security and public health.

9. Anticipating the intensification of the transition to a market economy, the Group considers that, along with the opportunities which may open up for women's employment, there is an inherent risk of a negative impact on women, as such transitions have generally involved privatization, a reduction in public service jobs and a reduction or privatization of public care services for dependent children and sick or disabled adults. These changes have a disparate impact on women who are the primary givers of unpaid care.. Hence, it particularly welcomes the intention, articulated in the reform agenda of 2013, to distribute the gains of the past 30 years equitably and increase the social protection floors for all and notes that this policy is of particular importance for the welfare and empowerment of women.

10. The Group also welcomes the loosening of the one-child policy which, although targeted at parents in general and not exclusively at mothers, has resulted in some serious violations of women's reproductive health and physical integrity.

11. The Group notes that the reform agenda emphasizes elements of the General Programme of the Constitution, calling for ethnic harmonization and equality; however it lacks equal vigour with respect to gender. It draws attention to the need for the achievement of gender equality and the empowerment of women and points to risks arising from current demographic and economic trends.

12. Given the minimal emphasis on gender at the Third Plenary Session of the 18th Central Committee, the framework for gender reform is based largely on existing policy frameworks which include goals and policies for gender equality. Under section III of the National Human Rights Action Plan (2012–2015), the State guarantees protection of the rights and interests of ethnic minorities, women, children, the elderly and the disabled. It reaffirms its commitment to promoting gender equality, guaranteeing the lawful rights and interests of women through advancing the equal participation of women in the management

[4] See "China's progress towards the Millennium Development Goals: 2013 report", p. 9, available from www.cn.undp.org/content/china/en/home/library/mdg/mdgs-report-2013/.

[5] Ibid.,p. 24.

[6] Ibid., p. 30.

[7] World Bank, "Inequality in focus" available from www.worldbank.org/content/dam/Worldbank/document/Poverty%20documents/Inequality-In-Focus-0813.pdf, p.2.

of State and social affairs, eliminating gender discrimination in employment and realizing equal pay for equal work. This is reconfirmed in chapter 36 of the outline of the Twelfth Five-Year Plan for National Economic and Social Development (2011–2015) which emphasizes the commitment of the Government to strengthening women's labour protection, social welfare and poverty relief, and eliminating violence against women and the Chinese Women's Development Programme (2011-2020), whose objective is to achieve gender equality in seven fields, including health, education and social security.

13. The Group notes that the Government is deeply aware that full achievement of the enjoyment of human rights is a work in progress and that the Government faces many challenges in this regard. The Government has indicated that it supports the view that genuine dialogue and a meaningful process of engagement in both international and national forums are key to addressing these challenges. The hosting by China of the Fourth World Conference on Women in Beijing nearly 20 years ago remains a historic milestone for the growth and development of women's rights movements and organizations globally and in China.

14. The Group welcomes the growing openness of China to global engagement and its ratification of the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, the International Labour Organization (ILO) Equal Remuneration Convention No. 100 (1951), ILO Convention No. 111 (1958) concerning Discrimination in Respect of Employment and Occupation and ILO Convention No. 138 (1973) concerning the Minimum Age for Admission to Employment. This international legal framework provides a solid foundation for continued progress in achieving full enjoyment of women's rights and gender equality in China.

III. Legal framework for equality and the human rights of women

A. Achievements

15. The Working Group welcomes the guarantee of gender equality in the Constitution as enshrined in article 48, which establishes the principle of equality between women and men in the enjoyment of political, economic, social and cultural rights, including family life. It also welcomes the affirmation of this principle in a series of laws.

16. The Group commends the significant strides that have been made towards putting in place a framework of law and policies to eliminate discrimination against women and notes that its greatest progress in legislation is in the fields of employment, social security and matrimonial law. The Law on the Protection of the Rights and Interests of Women as amended in 2005, stipulates, inter alia, that the State has the responsibility to prevent all discrimination against women, to take measures to gradually improve the systems for protecting their rights and interests and to guarantee their enjoyment of equal rights with men to work and to social security, equal pay for equal work and equal welfare benefits. It also states that women have equal rights to inherit and own land.

17. The Labour Law of 1995 and the Law on the Promotion of Employment of 2007 give workers the right to choose a job freely and provide that those seeking employment will not be subject to discrimination based on factors such as ethnicity, race, gender or religious belief. Furthermore, employers must not include any provision in an employment contract that discriminates against women on grounds of marriage or childbirth. The Labour Contract Law of 2008 stipulates that the formation of a labour contract must be based, inter

alia, on the principles of lawfulness, fairness and equality. The Marriage Law, as amended in 2001, states that marriage is to be based on equality between men and women and the freedom to choose a partner, and the rights and interests of women must be protected.

18. The Special Provisions on the Labour Protection of Female Employees of 2012 improve on the special measures for pregnancy and maternity rights. Those provisions impose, for the first time, an obligation on employers to prevent sexual harassment of female employees in the workplace.

B. Challenges

19. The Working Group notes that, despite an impressive existing framework of law and policies for the elimination of discrimination against women, gaps remain in de facto equality, as a result of persistent discriminatory practices and stereotypes. There is currently no definition of sex discrimination in employment and hence there is no legal prohibition in line with the definition of discrimination against women in article 1 of the Convention on the Elimination of All Forms of Discrimination against Women.

20. . Furthermore, efforts to promote women's equality have been largely protective, preserving minimum standards for women in employment conditions, maternity, matrimony and old age, with less focus on concrete measures or policies to empower women to participate in decision-making and leadership positions.

21. The Group notes that existing anti-discrimination legislation does not provide access to judicial or administrative agencies for its implementation. There are no provisions which facilitate action by victims of discrimination to enforce their rights under those laws, such as the possibility of class actions, the submission of claims by civil society organizations, shifting the burden of proof to the defendant, punitive compensation, or regulations to protect plaintiffs or witnesses against retaliation. This seriously impedes enforceability of the legislative anti-discrimination framework nationwide.

22. The Group was informed that the inadequate implementation of laws prohibiting discrimination against women is partly due to the fact that some of the national legal provisions are not considered sufficiently concrete to provide a cause of action, resulting in a lack of accountability.

23. The Group was informed that the Government enacts anti-discrimination laws as guidelines, which will then be propagated as enforceable rights through the agency of the provinces, which can interpret, apply and render them enforceable.. The Group acknowledges the important role of the provincial level in spearheading changes in laws and regulations related to women's rights. It notes that measures to promote equality have often originated in the provinces, or are transformed there from national guidelines to enforceable laws and regulations. However, the Group wishes to emphasize that the ultimate responsibility for the implementation of the human rights of women falls on the State itself, which has ratified the Convention on the Elimination of All Forms of Discrimination against Women, and the State must respect, protect and fulfil these rights throughout its entire territory.

24. The Group welcomes the fact that China is currently drafting a law against domestic violence and emphasizes the importance of bringing effective legislative measures into force to prevent, prosecute and punish perpetrators and protect victims as soon as possible, through the establishment of effective protection orders removing the perpetrator from the home and providing adequate shelters and redress for victims.

25. Beyond this, the Group observes the need for additional legislation to address violence against women and girls in all its forms and contexts. Although the Criminal Law,

as amended in 1997, contains provisions prohibiting violence such as rape, there is a need for targeted measures to prevent, prosecute and punish perpetrators and to protect and provide redress for women and girls who are victims of violence in all contexts, including in schools, in the public arena and if perpetrated against individuals because of their sexual orientation. The Group stresses the importance of prohibiting sexual intercourse with girls under the age of 16, marital rape and female infanticide.

26. While the Group commends China on the comprehensive equality provisions in its Marriage Law, it is concerned that, in practice, women may lose property rights as a result of cultural practices which invest ownership of property in the husband. Furthermore, it notes an interpretation of the Marriage Law issued by the Supreme People's Court in August 2011, which states that after divorce, marital property belongs solely to the person who took out a mortgage and registered that mortgage as the home owner. That appears on the surface to be a gender-neutral provision, introduced for the purpose of administrative efficiency but, in effect, it causes indirect discrimination, as it is usually husbands who are registered as owners.

27. The Group finds that mediation is the mechanism of choice to resolve conflicts in China, which is deeply rooted in Chinese social tradition. All stakeholders with whom the Group met during its visit, including most civil society organizations, regarded mediation as a useful and effective way of resolving disputes. It is viewed as having the advantage of speed, achieving agreement by both parties and hence enforceability. Various stakeholders explained that prevailing stigma against women who bring cases to court means that even when a woman employee wins her case, she may still lose in practice: in the workplace, she may have no choice but to quit if her employer opposes the judgement; in the context of disputes involving family property, she risks ostracism by her family.

28. The Group was informed that another reason for a lack of willingness to go to court was a perception in the legal community and in civil society organizations that potential plaintiffs are deterred by the lack of gender responsiveness of the judiciary, prosecution officials and lawyers. In view of such reservations regarding the judicial process, the Group sees an urgent need for an urgent need for capacity building and gender sensitivity programs for law enforcement officers, including judges, along with targeted legal education and empowerment programmes for women.

29. In view of the low level of access by women to judicial or administrative determination of discrimination cases, sees an urgent need to establish specialised administrative agencies to resolve complaints of discrimination on the basis of women's right to equality established in the law.

30. The Group is cognizant of the fact that the Law of the People's Republic of China on Guarding State Secrets, as amended in 2010, and the regulations on the implementation of this law of 2014, restrict the publication of specific information on, inter alia, women's work and family planning. The Group emphasizes the fact that this information should be publicly accessible in order to enable enforcement of the laws affecting gender equality, to carry out the policy of the Communist Party on the rule of law and to facilitate effective action by civil society organizations and individuals regarding the elimination of discrimination against women.

IV. Institutional framework

31. The All-China Women's Federation is a mass umbrella organization dedicated to the advancement of Chinese women, with a large national network at the provincial, township

and village levels. The Working Group appreciates the singular and important role of the Federation in society for addressing the special needs of women, e.g., establishing childcare service networks, training for employment and promoting women's political participation. It also appreciates the efforts of the Federation, especially in collaboration with autonomous women's rights organizations, to raise awareness of women's legal rights through the media and provide legal assistance, such as that provided in conjunction with the Ministry of Justice to women at 61,000 clinics nationwide.

32. The National Working Committee on Children and Women is a State Council organization in charge of encouraging the relevant government departments to implement laws and regulations and policy-related measures concerning women and children, and coordinating those efforts.

33. The Group noted during its visit that there is no special mechanism consisting of independent experts, such as an equal opportunities commission (except in Hong Kong) or a national human rights institution, to monitor the gender impact of existing laws and policies, address individual complaints from women who experience discrimination, provide input into the drafting of new laws and policies or recommend an agenda for change. Such institutions are essential to promote and protect the human rights of women, which have been enshrined in the constitution, laws and policy frameworks of China.

V. Participation of women in economic and social life

34. The economic transformation of the past three decades has had a considerable impact on two central aspects of women's lives: employment and care responsibilities.

A. Employment

35. Under the centrally planned economy, the participation of women in the labour force became very high, giving them access to a wide range of social services and benefits, which enabled them to combine the double burden of paid work and unpaid care. Although that participation has declined from 73 per cent in 1990, it is still among the highest in the world, with 64 per cent of the female population aged over 15 participating in the labour force in 2010.[8] Women have also moved into lower-paid and lower-skilled jobs or the informal sector.[9] This decline in the level of women's employment has occurred in the context of serious reductions in State provision of care services, making it difficult for women to reconcile paid work and unpaid care for children, the elderly and the sick which, in China, as elsewhere, is predominantly the responsibility of women. Furthermore, the Working Group was informed there has also been a re-emergence of traditional values, pressurizing women to withdraw from the labour market when they marry and have a child.

36. The Group appreciates the fact a comprehensive legislative framework to prevent discrimination against women in employment and create minimum employment standards has been established. It commends the Government for introducing a minimum wage, which varies according to the different costs of living in the provinces, municipalities or regions..

[8] World Bank data, available from http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS.

[9] Sarah Cook and Xiao-yuan Dong, "Harsh choices: Chinese women's paid work and unpaid care responsibilities under economic reform", *Development and Change*, vol. 42, No. 4 (July 2011), p. 951.

1. Maternity protection

37. The Working Group welcomes the Special Provisions on the Labour Protection of Female Employees of 2012, which increase the length of maternity leave from 90 to 98 days, in line with the minimum required by ILO Convention No. 183 (2000) concerning the revision of the Maternity Protection Convention (Revised), 1952; require the payment of maternity allowance during maternity leave; impose stricter penalties for failure to pay maternity insurance contributions; and exempt female employees from working overtime or at night from the seventh month of pregnancy or if they are nursing.

2. Women executives and entrepreneurs

38. The Group notes the sharp rise in women holding senior management positions from 25 per cent in 2012 to 51 per cent in 2013.[10] However, it observes that this rapid rise, particularly of women chief executives, does not apply to State-owned companies and is of the opinion that the reason for this discrepancy should be researched and reviewed. It notes the commitment of the Communist Party under article 33 of the Constitution to the training of women cadres and cadres from ethnic minorities. It also acknowledges the work done in Shanghai by the women's cadre school, which provides a platform to connect women entrepreneurs with each other and promote an exchange of knowledge on a range of issues linked to establishing and managing a business.

3. Discrimination in recruitment, wages and dismissals

39. However, the Group is concerned at information that it received during its visit regarding discrimination against women in terms of recruitment, wages and dismissals. It welcomes the statement made by the Government of China during the discussion under item 28 of the agenda on the advancement of women at the Third Committee of the sixty-eighth session of the General Assembly that "Governments should take measures in legal, administrative, educational and social fields in an integrated manner to eliminate employment discrimination…and safeguard the rights and interests of women workers."[11]

40. The Working Group noted evidence of sex-based discriminatory job advertisements in 13 per cent of employment advertisements examined.[12] In a survey in 2011, 61.5 per cent of female students stated that they had experienced discrimination in the job-hunting process. Many reported that they did not know which authority to complain to, or believed that it was not worth filing a complaint when they experienced sex discrimination.[13]

41. The Group welcomes, however, the successful outcome in 2013 of what is believed to be the first anti-discrimination lawsuit in China, brought by a law professor on behalf of a female graduate who had been rejected by a private tutoring firm on the basis that it required a man for the post who could carry out physical tasks such as refilling the bottle on a water dispenser. A settlement was reached in favour of the female applicant and damages of 30,000 yuan were awarded.

42. The Group notes that the gender pay gap has been increasing during the past two decades,[14] especially in rural areas and the private sector. It notes that the wage gap has not

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[10] Grant Thornton international business report, "Women in senior management: setting the stage for growth", (2013).

[11] See www.china-un.org/eng/hyyfy/t1089080.htm.

[12] Liu Bohong, "Female graduates deserve equal opportunities", available from http://www.womenofchina.cn/html/womenofchina/report/152312-1.htm.

[13] Women's Watch-China, Annual Research Report (2012), pages. 97 and 98.

[14] See All-China Women's Federation, Third Wave Survey on the Status of Women in China, available from http://landwise.landesa.org/record/228.

increased in State-owned enterprises, which indicates that further privatization is likely to increase the gap overall. Furthermore, occupational gender-based segregation in the labour market, both horizontal and vertical, constitutes a major factor in the wage gap. Women are concentrated in the lower-paid professions and sectors.

43. The Group further notes that, although there is a legislative obligation on employers to provide equal pay for equal work, this does not include equal pay for work of equal value as required by ILO Convention No. 100. Equal pay for work of equal value is fundamental to tackling occupational gender-based segregation in the labour market, because it permits a comparison of the economic contribution of women and men and prevents discrimination against feminized sectors or occupations.

44. The Group is particularly concerned at the prevalence of discrimination on the grounds of maternity, with employers avoiding their obligation to pay maternity leave benefits by employing only women who already have children, not paying the statutory 98-day maternity leave, or dismissing women during pregnancy or when they are breast-feeding. It commends the intervention by the All-China Women's Federation in supporting complaints from women employees threatened with discriminatory treatment of this kind and, where necessary, in referring cases to the labour inspectorate.

4. Mandatory retirement and pensions

45. As recognized in general recommendation No. 27 (2010) of the Committee on the Elimination of Discrimination against Women on older women and protection of their human rights, an additional obstacle to the equal participation of women in the workforce is their mandatory early retirement ages. The Group notes that the statutory retirement age is 60 for men and 50 for women (55 for female civil servants). This restricts women's wage-earning years and opportunities for career betterment and promotion and increases their risk of poverty in old age. In the 50–54 age range, 75 per cent of men are working, compared to less than 45 per cent of women.[15] In December 2013, the Ministry of Human Resources and Social Security announced plans to increase the retirement age for women and men progressively. The Group welcomes ensuring women's right to continue to work to the same age as men and notes that it is important to ensure that decent work is available for older women, or they have an option of early retirement,otherwise increasing their retirement age may increase their vulnerability to poverty.

46. The Working Group notes with appreciation the rural social pension scheme introduced in 2009, together with other pension schemes, providing 60 per cent of those aged over 60 with a monthly pension.[16] In 2011, the urban social pension scheme was established, thus achieving universal coverage. However, as has been recognized by the Government, the level of pensions remains low and arguably inadequate as a minimum income for older age, and needs to be raised, particularly for rural women.[17] Indeed, the pension benefit level relative to GDP per capita remains low in comparison to international standards.

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[15] See "Challenges of population ageing in China: evidence from the national baseline survey of the China Health and Retirement Longitudinal Study" 2013, available from online.wsj.com/public/resources/documents/charls0530.pdf.

[16] See Pension Watch briefing, "Pension coverage in China and the expansion of the new rural social pension", 2013, available from http://www.pension-watch.net/knowledge-centre/?guid=51d5350fc6e2c&order=n.

[17] The current amount of the basic pension is 55 yuan (approx. $9) per month.

5. Trade unions

47. Article 7 of the Law on the Protection of the Rights and Interests of Women requires trade unions to strive to protect women's rights and interests. The Working Group welcomes this provision in the law, but was informed that trade unions lack real independence and effectiveness.

B. Care economy

1. Child care

48. China established a public childcare system under central planning, which contributed significantly to the high level of participation of women in the labour force. However, the transition from a centrally planned to a market economy has led to a decline in publicly funded childcare and rising childcare costs in private kindergartens. The Working Group notes that, as women bear the burden of childcare, this has a detrimental impact on women's ability to engage in the labour force, particularly for low- and middle-income families, except for those who have parents or grandparents available to take care of the children.

49. The Group commends the work carried out by the Shanghai chapter of the All-China Women's Federation, which resulted in the establishment of a State-funded pilot project aimed at helping professional women gain access to affordable, quality childcare services for children aged 0-3 years.

2. Care of parents

50. Article 49 of the Constitution affirms that children have a duty to support and assist their parents. The requirement of care for the elderly in an increasingly ageing population presents a serious barrier to women's equal access to economic opportunities, as women are the primary caregivers for the elderly, both parents and parents-in-law.[18]

3. Domestic workers

51. Economic growth, coupled with the privatization of care services and an ageing population, have led to a rapid extension of the market for domestic and care services. According to the ILO, there were approximately 20 million domestic workers and 600,000 domestic service agencies in China in 2009;[19] however, there is a lack of data on current numbers. Approximately 90 per cent of domestic workers are women, who are either from rural areas or who have been laid off in urban centres. Most have a low level of education and are exposed to a high risk of exploitation, sexual harassment and forced labour.

52. The Group notes the advocacy work carried out by the All-China Women's Federation on safeguarding the rights and interests of women domestic workers. It also appreciates the model training school for domestic workers, which it visited in Shanghai.

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[18] "Harsh choices: Chinese women's paid work and unpaid care responsibilities under economic reform", p. 958.

[19] ILO, Fact sheet: domestic work in China, 2009, available from www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_114256.pdf.

53. The Working Group is concerned that there are no legislative provisions governing the working conditions of domestic workers, which leaves them with no guarantee of a minimum wage, maximum working hours or social security.

54. The Group notes the advocacy work carried out, inter alia, by the All-China Women's Federation on safeguarding the rights and interests of women in the domestic work sector, including by providing domestic workers with vocational training programmes and certificates. It refers, in particular, to the the model training school for domestic workers, which it visited in Shanghai. It further notes the efforts made to regulate recruitment agencies dealing with domestic work, conduct inspections and promote the signing of contracts. However, it also notes that China has not yet ratified ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers and encourages it to apply the labour law standards contained therein.

C. Access to assets including land, housing and inheritance

55. The Working Group notes that, according to a survey carried out in 2011, only 17 per cent of existing land contracts and just over one third of existing land certificates included women's names.[20] Most rural women are not aware of their legal rights in relation to land and rarely request that their names be included in land registration.

56. The Group observes that, although women account for between 60 and 70 per cent of all farm labour and rely on agriculture for their subsistence, 70 per cent of the rural landless are women. It is concerned at the lack of security of tenure for many rural women, a significant proportion of whom have lost their land shares since the 1990s through government redistribution or widowhood.[21]

57. Village committees often exercise their discretionary powers to allocate land in accordance with traditional norms, whereby women who marry someone from another village are considered as "married-out", leaving them in a precarious situation regarding land rights. There is no institution or mechanism to review such decisions. However, the Group commends some local governments and women's organizations, which have amended village rules to ensure that married-out women retain their land rights in their own family villages and have applied judicial procedures to enforce compliance.[22]

58. As noted in paragraph 25 above, recent judicial interpretation of the Marriage Law allocates the matrimonial home to the registered owner, who is traditionally the husband, and this continues in spite of increasing contributions by the families of brides to its purchase. This has limited women's ownership of housing. The Group was told that some women are purchasing housing before marriage to avoid the consequences of this interpretation. However, a solution for women who do not take such an initiative is lacking.

D. Girls' education

59. The Working Group commends the Compulsory Education Law, as amended in 2006, which provides children, regardless of sex, ethnic status, family financial conditions or religious belief, with nine years of free compulsory education. This was achieved in

[20] Landesa Rural Development Institute, summary of 17-province survey findings, 2011, available from http://www.landesa.org/china-survey-6/.

[21] See A/HRC/19/59/Add.1, para. 31 and CEDAW/C/CHN/CO/6, para 27

[22] UN-Women/Office of the United Nations Commissioner for Human Rights, "Realizing women's rights to land and other productive resources" (2013), p.30.

2008 for girls and boys in urban and rural areas, with a net enrolment ratio for both boys and girls of 99.8 per cent.[23] However, the Group is concerned at reports that some colleges in China have lowered the minimum pass scores for entrance examinations in certain subjects for males only, thereby discriminating against female candidates.

VI. Participation of women in political and public life

60. The development of policy and social norms by the Government and the Communist Party has not led to the empowerment of women in political and public life. This is especially apparent in the low percentage of women at high levels of decision-making, both at the national and provincial levels. The Working Group emphasizes the fact that the empowerment of women in political and public life is an integral aspect of achieving national goals and dreams of China.

61. The Group is concerned that, in the executive branch, the participation of women is exceptionally low, especially at the highest levels. Only one woman serves as a vice-premier and there are no women in the most powerful decision-making body, the Standing Committee of the Central Politburo. According to reports, of the 31 governors and 31 party secretaries at the provincial level, only one is a woman. Within the Communist Party, women account for 17.3 per cent of the total membership. Two women currently serve on the twenty-five member Central Politburo of the Communist Party, while no figures are available on the number of women on the Central Committee of the Party, which comprises 204 members and 167 alternates.

62. Women currently account for 23 per cent of the legislative branch, the National People's Congress, placing China 62nd in the world in terms of percentage of women in the legislature.[24] That is a record number following a decision in 2007 of the 10th Congress, at which a target minimum of 22 per cent was established. The Electoral Law of the National People's Congress, the Local People's Congresses and the Law on the Protection of Rights and Interests of Women merely stipulate that there shall be "an appropriate number" of women among deputies to the NPC and local people's congresses at various levels, and that the proportion thereof shall be raised gradually, without specific policy measures to ensure a consistent and progressive increase.

63. The Organic Law of the Villagers Committees, as amended in 2010, requires a quota for women's participation in the villagers' representative assemblies, in which more than one third of the places are allocated to women. Those women hold primarily administrative functions. The Group is concerned that legal guarantees on women's political participation is confined only to the lowest level of Government.

64. The Group takes note of the growing openness of the Government to civil society organizations and its acceptance of recommendations made during its first universal periodic review in 2009 to strengthen its engagement with civil society to promote and protect human rights. The Third Plenary Session of the 18th Central Committee recognized the role of civil society and social organizations in governance and the need for greater cooperation between those actors and the Government, encouraging the Government to contract out services to social organizations, make it easier for them to register and increase the tax advantages for charitable donations.

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[23] See data from the United Nations Children's Fund, available from http://www.unicef.org/infobycountry/china_statistics.html.

[24] Data compiled by the Inter-Parliamentary Union, available at http://www.ipu.org/wmn-e/cl..ssif.htm.

65. The Group emphasizes the need for the immediate implementation of these policies as a matter of urgency, particularly in the light of the rapid expansion of civil society organizations, including the autonomous group of women's non-governmental organizations (NGOs) catalysed by the Fourth Women's Conference and NGO Forum held in Beijing in 1995. They include centres for women's studies in research institutes and universities, self-organized service providers and advocacy organizations that monitor implementation of China's laws and policies, including its human rights obligations. In recent years, young women have been increasingly using social media as a means of expression and public engagement on major social, economic and political issues, including in campaigning against discriminatory practices.

66. While the Group recognizes that reforms in this sector are ongoing, certain challenges require attention. The Group received reports of autonomous advocacy groups being forced to close and register as profit-based organizations, subject to commercial taxes and seizure of assets, rather than registering as non-profit organizations.

67. The Group expresses its deep concern at reports of repressive measures, mostly judicial in nature, including arrest, administrative detentions and prevention of freedom of movement, taken against women who seek to advance human rights. It regrets the death of Cao Shunli, despite urgent calls for adequate medical attention during her time in detention, including that of the Working Group during its visit to China.[25] The Group notes that the Government accepted a recommendation during the second cycle of the universal periodic review, according to which it would ensure that its citizens could freely engage in the universal periodic review process (A/HRC/25/5, para. 186.61). The Group emphasizes that the goal of gender equality cannot be fulfilled in China unless women's rights defenders can function in an environment of freedom and transparency in national and international forums.

VII. Women facing multiple forms of discrimination

A. Rural and migrant women

68. The Working Group appreciates the attention paid by the Government to the special needs of rural women during this time of economic and social transformation, including measures taken to support the transfer to non-agricultural industries of rural women, retraining and educational programmes and the extension of pension coverage to the rural population, which is particularly significant for the large number of older rural women.

69. However, as more rural men than women migrate for work to urban centres, women are left behind as heads of households and bear the double burden of responsibility for household work and generating income. They are also highly vulnerable targets of sexual violence, including rape.[26] The Group also received reports of high suicide rates among rural women who lack structural support and access to mental care facilities.

70. According to national statistics, in 2009, there were a total of 229.8 million rural migrant workers in China.[27] Approximately one third of all migrant workers are women.[28] Many migrant workers, including those from rural areas and factory workers known as

[25] See CHN 6/2013, CHN 11/2013, CHN 13/2013 and and A/HRC/25/74, page 122).)

[26] Women's Watch-China, Annual Research Report (2012), p. 13.

[27] See http://www.ilo.org/beijing/areas-of-work/labour-migration/lang--en/index.htm.

[28] ILO working paper No. 89, Li Shi, "Rural migrant workers in China: scenario, challenges and public policy" (June 2008), p.11.

dagongmei (working girls), face difficult working conditions in the labour market, in particular low wages, wage arrears, lack of written contracts, inadequate social security coverage, lack of access to decent housing and public services, long overtime hours and poor or unsafe working conditions.

71. The *hukou* is a national household registration system required by law and introduced in 1958, restricting access to education, health care and welfare benefits to the locality where a person is officially registered. This system produces de facto discrimination for urban migrants, particularly regarding their access to employment, social security, public health services, housing and education. It causes indirect discrimination against women who seek work as urban migrants and need to access those services for their children and parents, for whose care they bear the main responsibility.

72. The Group welcomes the announcement made at the 18th Central Committee in relation to a reform of the *hukou*, which recognizes the opportunity for women to obtain greater freedom of choice regarding occupation and residence together with their children.

73. Some local governments and municipalities have already undertaken reform of the *hukou*, such as Shanghai, which has launched a new regulation for residency permits, allowing residents from outside the city to apply for a residency permit if they have accumulated a certain numbers of points based on age, education, professional skills and employment.

B. Women with disabilities

74. The Working Group welcomes the extensive measures taken by the Government, in accordance with the Constitution, the Law on the Protection of Persons with Disabilities, as amended in 2008, and the Employment Promotion Law to support women and men with disabilities, reduce poverty and protect them from violence, exploitation and abuse. It notes the quota system requiring all State and private employers to set aside a small percentage of jobs for persons with disabilities.[29]

75. However, the Group reiterates the concerns of the Committee on the Rights of Persons with Disabilities, set out in its concluding observations on the initial report of China, regarding the lack of definition of discrimination against persons with disabilities, forced sterilization and abortion and the prevalence of violence perpetrated against women and girls with disabilities (CRPD/C/CHN/CO/1, paras. 11, 33 and 57).

C. Stereotypes

76. The Group noted that stereotypes regarding the roles and responsibilities of women are reflected in family roles, education, occupation and preference for sons in China. Such stereotypes are reflected in the State media claimed of a "crisis", as increasing numbers of educated women could not find husbands..[30]

[29] http://www.ilo.org/wcmsp5/groups/public/@ed_emp/@ifp_skills/documents/publication/wcms_112380.pdf.

[30] Sandy To, "Understanding *sheng nu* (leftover women): the phenomenon of late marriage among Chinese professional women", *Symbolic Interaction*, vol.36, No. 1 (February, 2013).

D. Lesbian, bisexual and transgender women

77. The Working Group is concerned that lesbian, bisexual and transgender women in China are subject to multiple forms of discrimination and violence in educational establishments, workplaces and the family. According to the results of a survey in 2009, over a third of the lesbian or bisexual women surveyed had suffered domestic violence, perpetrated by family members or partners. Many women reported contemplating suicide.[31]

78. Prohibitions on homosexuality were repealed in 1997 and homosexuality was removed from the official list of mental illnesses in 2001. However, since those two legal reforms, the Government has banned publications regarding lesbian, bisexual and transgender issues and stalled further developments to prevent discrimination.[32]

E. Women in detention

79. China has the fastest growing female prison population in the world. It has been reported that there is a lack of gender segregation in many prisons and an insufficient number of female staff, especially among guards and medical personnel.[33]

80. A large number of female prisoners have been jailed for killing or wounding abusive husbands after enduring years of domestic violence. China has executed a number of these women, including mothers. In one study of 121 women in a Sichuan prison who were convicted of killing or injuring their husbands, 93 were convicted of intentional homicide, 71 were given suspended death sentences or life imprisonment, while 28 were jailed for more than 10 years.[34] The Working Group has noted the call by the Supreme People's Court for leniency in such cases.

81. The Group is concerned at reports of suspected prostitutes being detained without due process or a trial, for up to two years in "re-education through labour" camps or "custody and education" centres. Although the Government announced in 2013 that it would reform "re-education through labour," there has been no such announcement for the estimated 183 custody and education centres, which hold more than 15,000 persons, the majority of whom are women.[35]

F. Ethnic minority women

82. The Working Group appreciates the attention given by the Government to ethnic minority women, as witnessed during its visit to Dai Autonomous Prefecture in Xishuangbanna province, where it held discussions with members of the village committee and women's group and visited the Xishuangbanna women and children's counselling and legal aid centre. It observed the role played by women grass-roots leaders in shaping the

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[31] Women's Watch-China, Annual Research Report (2012), pages 9-10.

[32] See Tom Mountford, "The legal status and position of lesbian, gay, bisexual and transgender people in the People's Republic of China", International Gay and Lesbian Human Rights Commission (March 2010), available from http://iglhrc.org/content/china-legal-position-and-status-lesbian-gay-bisexual-and-transgender-people-people%E2%80%99s.

[33] See http://duihua.org/wp/?p=8567.

[34] Hongmei Xing, "Psychology of women abused by domestic violence and committing murder of husbands – an investigation of a women prison in Sichuan Province", *Journal of China Women's University* (2011–2013).

[35] Human Rights Watch, "Swept away: abuses against sex workers in China" (2013), available from www.hrw.org/sites/default/files/reports/china0513_ForUpload_0.pdf.

development of women in their communities through raising awareness of trafficking in persons, domestic violence, land and property issues and employment, and psychological counselling and mediation for local families in difficulties.

83. However, the Group received reports of discrimination against some other groups of ethnic minority women in China, who suffer multiple discrimination, both as women and as members of a minority group. In the Tibetan Autonomous Region, women have a life expectancy that is seven years lower than the national average for women in China[36] and their maternal mortality rate is by far the highest.[37] This is despite the fact that the farming and nomad population have been incorporated into the free medical care system. The Working Group reiterates the concerns of the Committee on the Elimination of Discrimination against Women at the reported incidents of violence against women in detention centres in this region (CEDAW/C/CHN/CO/6, para. 21). The Group is also concerned at reports of unmarried Uighur women as young as 16 being forced to participate in a labour transfer programme from the Xinjiang Uighur Autonomous Region to urban factories in eastern China, enduring appalling working conditions, which has led to some families in the region arranging the marriages of their daughters to older men in order to escape transfer to the factories.

G. Women vulnerable to trafficking in persons

84. China is a source, destination and transit country for trafficking in persons for sexual exploitation. The Working Group commends the Government on its efforts to combat trafficking in persons and notes the effective collaboration between law enforcement agencies and women's organizations in Yunnan province to develop a "protection chain" for assisting survivors of trafficking. Nevertheless, there is an urgent need to increase efforts, as an increase of almost one third in the annual number of recorded cases of trafficking in women and children was reported between 2008 and 2011.[38]

85. The Group has been informed of an increase in the number of women leaving the Democratic People's Republic of Korea for China. It is concerned that these women who, according to the findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea, have been trafficked to China and often sold into forced marriages, and have been classified as irregular foreign migrants not entitled to health care or basic education for their children, rather than refugees or asylum seekers, or refugees *sur place*, entitled to international protection. The Group is also aware that many of these women are apprehended and forcibly repatriated, and then subjected to persecution, torture, prolonged arbitrary detention and in some cases sexual violence or forced abortions at "gathering centres", detention centres or prison camps.[39] It is concerned that the Chinese authorities, knowing of these practices, offer pregnant women abortions in medical facilities before repatriation, rather than allowing them to remain in China.[40]

[36] UNDP, National Human Development Report on China (2013), p. 106.

[37] See the China Statistical Yearbook (2011) compiled by the National Bureau of Statistics of China.

[38] Women's Watch-China, Annual Research Report (2012), p. 21.

[39] See A/HRC/25/63, paras. 42–45.

[40] See A/HRC/25/CRP.1, para. 440.

H. Women suffering violence

86. Domestic violence is under-recognized and underreported in China. One in every four women is a victim of domestic violence.[41]

87. As noted above, China is currently drafting a law against domestic violence, but as yet there is no clear legal definition of domestic violence, nor a clear legal framework that directly addresses domestic violence at the national level. Police have had limited training in dealing with the special problems that arise in the reporting and prosecuting of domestic violence cases.

88. The Working Group notes the Supreme People's Court guidelines of 2008 for handling cases involving retaliatory or defensive attacks by women on their husbands in the wake of domestic violence, which recommends leniency in cases of retaliation and the issuing of protection orders to remove the violent partner from the home. It understands that those guidelines, promulgated at the national level, are not mandatory, but welcomes the fact that some 25 provinces, autonomous regions and municipalities have taken the lead in giving effect to the guidelines and making them enforceable through local regulations. Some authorities have created a broader definition of domestic violence, while others have codified principles and procedures for handling domestic violence and are making a conscious effort to implement them.

89. The Group further notes that, with the adoption of the Special Provisions on the Labour Protection of Female Employees in 2012, employers are obliged for the first time under employment law to prevent sexual harassment of female employees in the workplace. It was informed that, to date, 27 of 31 provincial governments in mainland China have enacted implementing rules which contain provisions against sexual harassment.

90. The Group observes that cases of sexual assault of girls in schools have been reported in some provinces. In one survey of 5,000 students, at least 50 cases involved sexual assaults on girls by their teachers. In the wake of such child sex abuse scandals and the jailing of an activist who launched a campaign against the teachers concerned, a group of prominent women lawyers from across the country joined forces to represent the girl victims of sex attacks. The recent scandals have prompted widespread anger and calls for a review of the laws on sex with minors.

91. The Group also notes the inconsistency between articles 236 and 360 of the Criminal Law. Article 236 states that individuals who have sexual intercourse with girls under the age of 14 shall be deemed to have committed rape and punished severely, which includes the possibility of the death penalty. Article 360 states that whoever "whores with a girl" under the age of 14 shall receive a minimum five-year sentence and a fine. Although the Working Group notes with appreciation the 2013 Opinion of the Supreme People's Court on the punishment of sexual abuse of minors, it considers that intercourse with any underage girl, including so-called child prostitutes, should be treated as rape and subject to the maximum penalty. Child prostitution is one of the worst forms of systematic sexual violence and children do not have the capacity to give consent.

92. Violence against women is also evident in the use of forced sterilization and abortions in furtherance of the one-child policy. The Group appreciates the recent condemnation by the Government of such practices by local officials, but strongly emphasizes that effective preventative measures need to be taken at the national level, to prevent any recurrence of such crimes.

[41] See UN-Women factsheet, available from www.unwomen-eseasia.org/docs/factsheets/02%20CHINA%20factsheet.pdf.

93. The Group notes that the quality of support services for women and girl victims of violence, such as shelters, legal aid and medical services, is currently insufficient to meet national demand and would benefit from concrete policy and budgetary measures.

I. Women living with HIV/AIDS

94. The Working Group appreciates the efforts of the Government to address the issue of HIV/AIDS, including its planned expansion of drug treatment for people with the disease and the protection of HIV/AIDs patients from discrimination in hospitals. However, it notes that China is experiencing a feminization of the HIV/AIDS epidemic. Increases in infection rates are observed in mother-to-child transmission and heterosexual transmission, predominantly through intimate partner transmission, which is linked to domestic violence and women's resulting inability to negotiate safe sex.[42] The Group received information regarding discrimination by medical institutions which refuse to give treatment to patients, violate their right to privacy and withhold important information.

VIII. Good practices

95. The Working Group commends the Government for rooting the concept of gender equality in the Constitution and in the National Action Plan on Human Rights and the Twelfth Five-Year Plan. It also commends it for demonstrating a deep awareness of the challenges in achieving the goals of equality for women and its openness to a process of continuous learning, and welcomes its desire to "seize the opportunity of Beijing 20+ to take forward the work related to women."[43]

96. The Working Group further commends the Government for eliminating almost all discriminatory laws and putting in place a framework of laws to prevent discrimination against women, particularly regarding employment and the family.

97. The Working Group notes the significant efforts made by the Government to extend social protection rights, especially for mothers. It also commends the remarkable achievement in making universal pension coverage a key policy issue, with a particular impact on women, who constitute a majority of the poor and elderly.

98. The Working Group commends the Government for its success in making the education of girls a high priority, as required by Millennium Development Goal 3 and increasing the level of education of girls ahead of 2015.

99. The Working Group further commends the Government on its efforts to provide universal health insurance. One billion people in China are now insured under one of three health insurance schemes and the Government aims to increase this to over 90 per cent of the population by 2020.

[42] Ibid.

[43] See www.china-un.org/eng/hyyfy/t1089080.htm.

IX. Conclusions and recommendations

A. Conclusions

100. **Gender equality is affirmed in the Constitution, national policy documents and the political, economic, social and cultural spheres, including family life, and significant efforts have been made to put in place a framework of law and policy to eliminate discrimination against women. China has made remarkable progress in achieving many of the Millennium Development Goals, most notably increasing the level of education for girls and making significant strides in reducing maternal mortality rates. However, there is insufficient evidence on gender equality on the agenda of the Third Plenary Session of the 18th Central Committee.**

101. **Despite the progress in recognizing women's right to equality, women are very underrepresented at the highest levels of political decision-making and, in this respect, there is no evidence that policies to empower women, the development of social norms by the Government or the political work of the Communist Party have succeeded in achieving their goals.**

102. **There is a risk that the transition to a market economy may have a negative impact on women, as such transitions have generally involved privatization and hence a reduction in public service jobs, public care services and an increased pressure on women to take insecure employment. The Working Group found evidence of such developments in China.**

103. **Women's participation rates have declined, there has been a rise in informal and precarious labour and a rise in the gender wage gap in the private sector.**

104. **Serious challenges persist in the implementation of the anti-discrimination legislation and of accountability. Existing anti-discrimination legislation does not provide effective accountability mechanisms, such as access to judicial or administrative tribunals, for resolution of disputes. There is a preference in Government, the legal community and most civil society organizations for mediation as the mechanism to resolve conflict; however mediation alone does not provide an effective accountability mechanism for women to implement their rights in accordance with the rule of law. Furthermore, central government frameworks are regarded as guidelines rather than mandatory, concrete and enforceable norms and giving effect to laws is delegated to the discretion of provincial governments.**

105. **China is facing the challenge of demographic change on an unprecedented scale, both rapid rural-urban labour migration and an increasingly ageing society. Those factors will impact on Chinese women who, as elsewhere, are often the ones left behind in rural areas, who assume a major burden of care for children and the elderly. Chinese women are at a juncture between becoming equal participants, decision-makers and beneficiaries of the new reforms or, unless preventative measures are taken, bearing a disproportionate burden of care in an increasingly privatized and ageing society. There is a sense of urgency in the next five years to implement important reforms and make good on the promises of the National Action Plan on Human Rights and the Twelfth Five-Year Plan, in order to advance women's human rights and equality in China.**

B. Recommendations

106. **In order to ensure that the new agenda for reform, as announced by the Third Plenary Sessions of the 18th Central Committee, achieves the aims of the National Human Rights Action Plan and the Twelfth Five-Year Plan, which are committed to promoting gender equality and guaranteeing the legitimate rights and interests of women, the Working Group recommends that the Government:**

(a) Initiate a process of nationwide consultations with a wide diversity of stakeholders, including local governments, civil society organizations and gender experts, on priorities for action necessary to overcome all forms of direct and indirect discrimination faced by diverse women;

(b) Formulate a comprehensive multi-year national gender policy dealing, inter alia, with issues of employment, matrimonial property, political representation, violence against women, and integrate it into China's macroeconomic planning;

(c) Allocate sufficient budgetary resources to secure women's human rights in the face of women's dual burden of care and the impending care crisis in an ageing society;

(d) Create a conducive environment, including through funding, independent research and analysis on the specific gender-based impacts of major demographic and economic changes occurring in different contexts and regions of the country, particularly as they affect women facing multiple forms of discrimination, and establish an effective means for incorporation of the findings into the policy decisions of the Communist Party and the Government.

107. **In order to enhance the enforceability of existing equality guarantees in its laws, the Working Group suggests that the Government:**

(a) Urgently adopt legislation on domestic violence, as already proposed, which will provide effective prevention, prosecution and punishment of perpetrators, including effective protection orders to remove the perpetrator from the home and prohibition of marital rape;

(b) Enact legislation to prevent, punish and prosecute violence in schools, the sexual abuse of minors under the age of 16;

(c) Enforce the government's articulated policy to prohibit forced sterilization and abortion;

(d) Implement legal provisions generated at national and local government levels to prevent discrimination against women throughout its territory in a holistic and accountable manner, including by concretizing those provisions, defining discrimination to include direct and indirect discrimination and prohibiting multiple discrimination;

(e) Establish administrative agencies whose roles are to decide on complaints about discrimination which have not been settled by mediation and to resolve these complaints in accordance with the anti-discrimination provisions of the law;

(f) Introduce capacity development programmes for law enforcement agents, including police, prosecutors, judges and lawyers, at local, provincial and national levels, on the issue of gender and the law and its application in China, including through collaboration with national gender experts and international actors;

(g) Improve the legal literacy of women, particularly those who face multiple forms of discrimination, including through the active participation of local civil society organizations;

(h) Ensure freedom of information which relates to facts or opinions relevant to enforcing the laws on gender equality and fulfilling the Communist Party commitment to the rule of law with regard to the elimination of discrimination against women.

108. **In order to advance women's equal participation in political and public life, including in the management of the State and of social affairs, in accordance with the National Human Rights Action Plan, the Working Group recommends that the Government:**

(a) Apply special measures, including temporary special measures, such as the establishment of adequate numerical goals, for women's equal, meaningful and effective participation in high decision-making positions at the national, provincial and local levels and throughout the legislative, executive, administrative and judicial bodies, and provide a designated seat for the All-China Women's Federation in the top decision-making bodies of the Communist Party, including the Standing Committee of the Central Politburo;

(b) Establish a national human rights institution consisting of independent experts to carry out comprehensive and thorough reviews of laws and policies and their impact on women, and propose changes in law and policy, including those based on an assessment of individual complaints;

(c) Provide legal protection for all defenders of women's human rights and autonomous women's groups and coalitions in civil society to allow them to advance implementation of the law and advocate for policy changes affecting gender equality as part of the overall strengthening of the rule of law, democracy and human rights in China.

109. **In order to promote women's equality in the economy and in employment, the Working Group recommends that the Government:**

(a) In the development of a socialist market economy, establish mechanisms and measures to monitor optimally and carefully the impact on women, including through cooperation and dialogue with autonomous women's organizations in civil society, and choose ways to achieve this transition without sacrificing decent work and living conditions, social protection floors and care and health services;

(b) Establish an effective administrative agency to address issues of discrimination against women in employment, at both the national and provincial levels;

(c) Amend equal pay legislation so that the right to equal pay not only applies to equal work but also to work of equal value;

(d) Improve the legal framework protecting the employment rights and conditions of domestic workers, regulating recruitment agencies, mounting inspections, promoting the signing of contracts, providing labour protection and training systems and measures which professionalize domestic workers;

(e) Take fully into account the disproportionate allocation of unpaid care work to women in the design of policies at the macroeconomic level and in labour and social security, including by encouraging men to share the care burden through the introduction of improved paternity leave;

(f) Eliminate the early mandatory retirement of women and allow those who are willing and able to do so to continue working up to the same age as men;

(g) Extend protection for decent work to the many women employed in the informal labour market by increasing women's opportunities to work in the formal labour market and, alternatively, by guaranteeing them all social security rights, including maternity and care rights, which are available for formal sector employees;

110. **In order to protect the rights of women in vulnerable situations, the Working Group recommends that the Government:**

(a) Continue and extend measures to empower women in vulnerable situations, particularly women in detention, refugee women, disabled women, women living with HIV/AIDS and lesbian, bisexual and transgender women and facilitate their participation in economic, social and political life;

(b) Protect and humanely treat all North Korean women in China, especially those who are pregnant and have children, respect the principle of non-refoulement, provide access for the Office of the United Nations High Commissioner for Refugees to the provinces bordering the Democratic People's Republic of Korea, implement specific legislative and administrative provisions on refugees and establish national asylum procedures under the provisions of the Convention relating to the Status of Refugees.